

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1598.00
COMPLAINT INVESTIGATOR:	Steve Starbuck
DATE OF COMPLAINT:	July 12, 2000
DATE OF REPORT:	August 7, 2000
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 12, 2000

COMPLAINT ISSUES:

Whether the Western Wayne Schools and the East Central Special Services violated:

511 IAC 7-13-1(b) with regard to the school's alleged failure to provide special education services for a student with a disability beginning on the student's third birthday.

511 IAC 7-28-2(c) with regard to the school's alleged failure to provide the student with a free appropriate public education.

During the course of the investigation, additional issues were identified, which are:

511 IAC 7-10-3(e) with regard to the school's alleged failure to conduct an educational evaluation and convene a case conference committee (CCC) meeting within forty instructional days from the date the parent provided written consent.

511 IAC 7-12-1(p) with regard to the school's alleged failure to obtain written consent from the parent prior to an initial special education placement.

34 CFR 300.347(a)(7) with regard to the school's alleged failure to include in the student's IEP a statement as to how often the parent will be informed of the student's progress made towards annual goals.

511 IAC 7-12-1(k)(4) with regard to the school's alleged failure to specify in the IEP the length and frequency of special education services to be provided.

FINDINGS OF FACT:

1. The student is three years old and has been determined eligible for special education due to a communication disorder.
2. The student's date of birth is January 20, 1997. According to the Director's written response, personnel from the First Steps Program did not refer the student to the school timely for the purpose of assessing the student for special education services. The student should have been referred to the school at 30 months of age, however, First Steps personnel did not refer the student until the student was 35 months old. The student received an educational evaluation on February 9, 2000, and a CCC meeting was convened on February 28, 2000, where it was determined the student was eligible for special education. According to the IEP written on February 28, 2000,

special education services were to be initiated on February 28, 2000, through February 28, 2001.

3. The special education planning district received written parental consent to complete the student's educational evaluation on December 13, 1999. Although the student was evaluated on February 9, 2000, a CCC meeting was not convened until February 28, 2000. The Director acknowledges the school did not complete an educational evaluation and convene a CCC meeting within 40 instructional days of receiving written parental consent.
4. The IEP dated February 28, 2000, indicates the CCC determined the student eligible for special education, and recommended the student receive consultative services for speech. Page 1 of the IEP written on February 28, 2000, has a box for the parent to check to indicate whether they agree or disagree with the CCC's recommendations and the proposed placement. This box is blank. Although the parent signed the IEP, it cannot be determined if the parent agreed or disagreed with the decisions made by the CCC.
5. Page 6 of the IEP written on February 28, 2000, has a statement that reads as follows: "Schedule for reporting progress toward goals and objectives to parents (not less than general ed)." Under this statement there are spaces to check for reporting progress to parents every six weeks, every nine weeks, or other. None of these spaces are checked, nor is there a notation for how often the parents will be informed of the student's progress made towards annual goals.
6. Page 5 of the IEP written on February 28, 2000, states the student will receive consultative services for speech. There is no indication in the IEP as to the length of service or how often this service will be provided.

CONCLUSIONS:

1. Finding of Fact #2 indicates the school failed to provide the student with special education services beginning on the student's third birthday. Therefore, a violation of 511 IAC 7-13-1(b) is found.
2. Finding of Fact #2 reflects that the school did not provide the student with a free appropriate public education from January 20, 2000, through February 27, 2000. Therefore, a violation of 511 IAC 7-28-2(c) is found.
3. Finding of Fact #3 indicates the school failed to conduct an educational evaluation and convene a CCC meeting within forty instructional days from the date written parental consent was received. Therefore, a violation of 511 IAC 7-10-3(e) is found.
4. Finding of Fact #4 reflects the school failed to obtain written consent from the parent prior to an initial special education placement. Therefore, a violation of 511 IAC 7-12-1(p) is found.
5. Finding of Fact #5 indicates the school failed to include in the student's IEP a statement as to how often the parent would be informed of the student's progress made towards annual goals. Therefore, a violation of 34 CFR 300.347(a)(7) is found.
6. Finding of Fact #6 reflects the school failed to specify in the IEP the length and frequency of special education services to be provided. Therefore, a violation of 511 IAC 7-12-1(k)(4) is found.

The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Western Wayne Schools and the East Central Special Services shall:

1. In-service all appropriate personnel within the school corporation as to the requirements as specified in 511 IAC 7-25-4, 511 IAC 7-27-5(d), 511 IAC 7-27-6(a)(5) and (7), and 511 IAC 7-28-2. Submit documentation to the Division that the in-service training has been completed no later than September 29, 2000. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
2. Reconvene the CCC meeting to address the following issues:
 - a. to determine the type and the amount of compensatory educational services required for failing to provide a free appropriate public education;
 - b. to document whether the parent agrees or disagrees with the recommendations made by the CCC;
 - c. to list the length and frequency of special educational services to be provided; and
 - d. to include a statement in the IEP as to how often the parent will be informed of the student's progress made towards annual goals.

Submit a copy of the student's revised IEP and Case Conference Summary Report to the Division no later than September 29, 2000.

DATE REPORT COMPLETED: August 7, 2000